Affidavit of Professor Carlton shows, the balance in this case clearly favors the merger. Carlton Aff. ¶ 41.[107]

C. Competition Is Flourishing and the Merger Will Promote Additional Competition in Many Telecommunications Markets

As discussed in Section II, above, this merger offers the prospect of tremendous procompetitive effects in local markets throughout the country, as well as in global telecommunications markets. It will also benefit the public interest by creating a new, major U.S. participant in the global telecommunications marketplace. In addition, the substantial cost savings and other synergies that will be achieved as a result of this merger, described in Section II.D, will provide benefits in all the markets served by SBC and Ameritech, now and in the future. These enormous procompetitive and other public interest benefits produced directly by this merger are themselves sufficient for the Commission to find the merger in the public interest even if it found – contrary to fact – that there could be a conjectural loss of potential competition in selective geographic areas. See BA/NYNEX ¶¶ 178, 192.

In this section, we describe the various markets in which SBC and Ameritech participate and identify the actual competition in those markets and the effects of the merger on competition.

1. Local Exchange and Exchange Access

The merger will promote competition in local markets throughout the current SBC and Ameritech regions and beyond. As we have shown, the National-Local Strategy and the other plans of the new SBC will inject tremendous new competition into

[107] See also H. Hovenkamp, Federal Antitrust Policy § 13.4a (1994) (given the elusive nature of potential competition, it must be disregarded when weighed against improvements in actual competition that are likely to flow from a merger).

local markets, in addition to the competition that has already been produced by regulatory, technological and market developments. Gilbert/Harris Aff. ¶ 28.

Section 251 of the Telecommunications Act of 1996 requires SBC and Ameritech to offer their services at "wholesale" rates, to allow competitors to interconnect at any technically feasible point and to offer piece parts (like local loops) for lease on an unbundled basis. As a result, CLECs can enter the market using a variety of strategies. A CLEC may resell retail services either under an approved resale agreement or pursuant to an intrastate resale tariff.

Alternatively, a CLEC can install facilities, such as switches or fiber networks, and combine those facilities with network elements obtained from the incumbent on an unbundled basis. SBC's and Ameritech's implementation of these requirements has considerably lowered entry barriers, and numerous local competitors have entered markets throughout the two regions. See Schmalensee/Taylor Aff. ¶¶ 38-41, 43; Pampush Aff. ¶ 13; Table 1 at the "Tables" attachment.

Over 39 competitors provide service using a resale strategy in Ameritech's region, and 25 do so in SBC's states. See Appenzeller Aff. ¶ 15; Table 3 at the "Tables" attachment. In St. Louis, there are presently some 9 different CLECs reselling SBC local lines. See Table 5 at the "Tables" attachment. In Chicago, some 22 companies are reselling Ameritech local service – including AT&T, MCI, LCI and Cable & Wireless. See Table 6 at the "Tables" attachment.

In addition, competitors that connect their own switches to unbundled SBC or Ameritech loops face little difficulty in serving any profitable group of potential customers. Pampush Aff. ¶ 14. Competitors have already installed 547 switches in

SBC's region, and 120 in Ameritech's.[108] These competitors include interexchange carriers and their affiliates like AT&T/TCG/TCI and MCI/WorldCom/MFS/ Brooks/UUNet; cable companies like Time Warner and Cox; and a host of smaller carriers like Connect Communications (of Little Rock, Arkansas) in SBC's region, and Buckeye Telesystem (a subsidiary of Buckeye Cablesystems in Toledo) in Ameritech's. See Schmalensee/Taylor Aff. ¶¶ 48-62; Tables 7 and 8 at the "Tables" attachment. In the St. Louis LATA, at least 7 local competitors are operating 17 switches, and at least 13 local competitors are operating 37 switches in the Chicago LATA. See Schmalensee/Taylor Aff. ¶ 43; Pampush Aff. ¶ 9; Tables 9 and 10 at the "Tables" attachment. In addition, interexchange carriers that already have switches in the relevant geographic markets could readily use those switches in the provision of local service.

There are also extensive competitive transport facilities throughout the SBC and Ameritech regions and in the relevant geographic markets at issue in this transaction. Competitors' fiber networks currently total over 6,500 route-miles in SBC's region, and over 5,000 miles in Ameritech's.[109] Competitive landline transport is already available in every one of SBC's and Ameritech's states. See Tables 11 and 12 at the "Tables" attachment; Maps 3-29 at the "Maps" attachment; Pampush Aff., Attachment A.

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[108] See Pampush Aff. ¶ 13; Search of Local Exchange Routing Guide, Bellcore Traffic Routing Administration, Science Applications Int'l Corp. (July 1, 1998) ("LERG"). The LERG is based on information that is provided to Bellcore by incumbent and competitive local carriers. LERG switch counts do not always agree with counts from other sources, including public statements by the carriers themselves. Some of these discrepancies are due to the blurring of definitional lines between switching entities and rate centers. The bright line that once distinguished central office switches from other switching equipment has been fading as a new generation of remote switches and remote digital terminals (RDTs) have emerged with limited switching capabilities.

[109] Pampush Aff. ¶ 14. This is a conservative estimate based on the information available. It includes existing plant, planned networks and networks under construction.

In St. Louis, for example, MCI/WorldCom/MFS/Brooks/UUNet has operated a network since 1995.[110] AT&T/TCG's network, which is even more extensive than WorldCom's, serves the entire St. Louis metro area.[111] Similar, though smaller, networks are operated by Digital Teleport[112] and Intermedia.[113] Together competitors have deployed some 484 route miles of fiber in that LATA.[114] See Map 15 at the "Maps" attachment. This is, of course, in addition to the extensive cable television network operated by TCI, which AT&T plans to use to provide competitive local telephone

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110 See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: MFS-WorldCom at 11 (9th ed. 1998).

111 See Map 15 at the "Maps" attachment.

112 Digital Teleport's St. Louis network has been in operation since 1995. It consists of 200 route miles (17,700 fiber miles), with 27 buildings on-net, is collocated in 4 central offices, and is served by a Nortel DMS-500 Switch engineered to handle local and long distance traffic. Digital Teleport also operates networks in Fulton and Mexico, Missouri – both within the St. Louis LATA. The Fulton network consists of 5 route miles (360 fiber miles), with 7 buildings on-net. The Mexico network consists of 5 route miles (360 fiber miles). See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Digital Teleport at 3 (9th ed. 1998).

113 See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Intermedia at 8-9 (9th ed. 1998).

114 See New Paradigm Resources Group and Connecticut Research, 1997 CLEC Report: Annual Report on Local Telecommunications Competition (8th ed. 1997); New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, (9th ed. 1998); Teleport Communications Group, TCG Facts (visited July 14, 1998) <http://www.tcg.com/tcg/ about TCG/TCGfacts.html>.

service.[115] In Chicago, MCI/WorldCom/MFS/Brooks/UUNet,[116] AT&T/TCG[117] and NEXTLINK[118] operate their own networks.[119] CLECs with networks planned or under construction in Chicago include Allegiance Telecom[120] and Metromedia Fiber Network.[121] Together, these networks account for some 648 route miles of fiber in that

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[115] See, e.g., AT&T Press Release, AT&T, TCI to Merge (Jun. 24, 1998), available at <http://www.att.com/press/980624.cha.html> (AT&T CEO Michael Armstrong said: "Today we are beginning to answer a big part of the question about how we will provide local service to U.S. consumers").

[116] See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: MFS-WorldCom at 11 (9th ed. 1998).

[117] TCG operates a 412 route-mile network (16,750 fiber miles) with 76 buildings on-net. Opened in 1990, the network extends through Oak Brook, Rolling Meadows, Waukegan, Skokie, and Gary, Indiana. See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: TCG at 10, 24 (9th ed. 1998).

[118] NEXTLINK launched its 40 route-mile Chicago network in February 1998. See NEXTLINK Press Release, NEXTLINK Communications Reports Strong Sales and Revenue Growth, Apr. 30, 1998; see also New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: NEXTLINK at 13 (9th ed. 1998).

[119] See Illinois Commerce Commission, Annual Report on Telecommunications 1997 (visted July 19, 1998) <http://icc.state.il.us/icc/Doclib/AR/013198_TEL.polf>.

[120] See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Allegiance at 3 (9th ed. 1998).

[121] Metromedia's planned network, which it expects to complete in the fall of this year, will include 50 route-miles of fiber (21,600 fiber miles). See id. at Carrier Profile: Metromedia at 8.

LATA.[122] See Map 25 at the "Maps" attachment. Chicago is another major cable market for TCI,[123] and is likely to be a major local exchange market for AT&T/TCG.[124]

As described in Section II.A, above, the merged SBC/Ameritech will become a significant new competitor in 30 of the largest local exchange markets throughout the country. Out-of-region, the merger's impact will be unambiguously pro-competitive: the merger will introduce a major new competitor into many of the largest local exchange markets in the country. And as described in more detail in Section V.C.5, below, the new SBC's strategy will spur local exchange competition and the development of new and improved services nationwide, in the new SBC's own region as much as elsewhere, as other major competitors like the other ILECs, AT&T/TCG/TCI, WorldCom/MCI/MFS/ Brooks/UUNet, and Sprint respond in kind. See Schmalensee/Taylor Aff. ¶¶ 7, 16; Carlton Aff. ¶ 10.

Within SBC's or Ameritech's regions, the merger will not in any way alter or diminish the ability of others to compete in local exchange markets. Neither competitors,

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[122] See New Paradigm Resources Group and Connecticut Research, 1997 CLEC Report: Annual Report on Local Telecommunications Competition 449-450 (8th ed. 1997); New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Metromedia at 24 (9th ed. 1998); TCG, TCG Facts (visited July 14, 1998), <http://www.tcg.com/tcg/about TCG/TCGfacts.html>.

[123] Following TCI's purchase of MediaOne's cable network in Chicago, TCI's Bill Fitzgerald declared that "The Chicago area is a strategically important market" for his company and that the acquisition had "further positioned [TCI] as a leading telecommunications provider in this region." Joseph Cahill, TCI Sets Its Sights on Chicago: Eyes MediaOne Deal, Crain News Service, Aug. 18, 1997, at 4.

[124] See, e.g., J. Cahill, AT&T Takes on Familiar Turf: Local Monopoly: It Eyes Up to 5 percent of Ameritech's Chicago Market, Crain's Chicago Business, Jan. 27, 1997; AT&T Leases Fiber Route From Jones Intercable for Chicago Suburbs Service, M2 Presswire, Aug. 27, 1996; AT&T Target Chicago as First Fiber Buildout, Fiber Optic News, Aug. 5, 1996.

state commissions nor this Commission will allow any backsliding in the market-opening process. SBC and Ameritech already face in-region competitors that are large, experienced, robust and ambitious. The main CLECs already have established customer bases within SBC's and Ameritech's regions. Nearly every local phone customer is already signed up with one or another of the long distance companies. Some 60 percent of those residential customers likewise have an established business relationship with a cable company. Millions more have established business relationships with wireless carriers unaffiliated with SBC or Ameritech.

The main CLECs also have powerful brand names that cut across all consumer segments. AT&T/TCG/TCI and MCI/WorldCom/MFS/Brooks/UUNet have assembled entities with strong reputations in the business and consumer ends of the market. Schmalensee/Taylor Aff. ¶¶ 48-54. Other CLECs are aggressively marketing their services through a variety of means. The major IXC-CLECs have far more extensive national marketing organizations than either SBC or Ameritech.[125] Though they tend to have smaller advertising budgets, smaller CLECs focus intensely on fewer markets, aggressively targeting select customers in select areas.

SBC and Ameritech will not enjoy any supply-side differentiation from other entrants. Numerous carriers – AT&T/TCG/TCI, MCI/WorldCom/MFS/Brooks/UUNet, Sprint, and others – have extensive experience either directly in local telephony or in large-scale operation support systems; in any event, experience, know-how and systems themselves are available from independent suppliers. The wide availability of resale will

[125] See, e.g., M. Roberts, Montgomery Securities, Bell Atlantic/NYNEX Merger: Another "Time To Go" Signal, Communications Services, Apr. 23, 1996 (noting that analysts agree that weak marketing skills are a key "strategic disadvantage" for RBOCs competing against interexchange carriers.).

make it easy to assemble copycat packages of any differentiated bundle that succeeds in the market. Technological differences in products offered through unbundled switching are likely to involve software or hardware features that are readily available from third-party vendors – hence, again, subject to easy imitation. Other competitors also have equal, if not greater, abilities to bundle a wide variety of services together. AT&T/TCG/TCI, for example, will have a unique ability to bundle facilities-based local, long distance, wireless, Internet and cable services together. The merger will position the new SBC to compete more effectively in this changing environment.

Finally, the merger will enhance the ability of the new SBC to provide competitive, innovative, new services and more effectively to market existing services to customers. In-region local customers will enjoy the benefits of the numerous synergies and efficiencies that the merger will effect, including each company's particular network, market research and product development expertise and cost savings derived from increased scale.

2. Wireless Services

In each of their cellular markets, SBC and Ameritech compete not only with the other cellular carriers but also with at least two PCS licensees and also one or more SMR providers, including Nextel, the nation's largest provider of such services.[126] This is consistent with the pattern of wireless competition created by the Commission's licensing policies. There are 117 different companies holding cellular and PCS licenses in areas where SBC controls wireless properties and 83 different wireless license holders in areas where Ameritech controls wireless properties. In both regions, the largest license holders

[126] In their PCS markets, of course, SBC and Ameritech face two cellular competitors in addition to other wireless carriers.

are affiliated with interexchange carriers.[127] After the merger, the new company will still compete against AT&T in 107 service areas, against Sprint in 119 areas and against other companies like GTE, BellSouth, AirTouch, Omnipoint, PCS Primeco, Alltel/360°, U.S. Cellular, and many others. See Maps 30-37 at the "Maps" attachment.

Numerous other competitors have built nationwide wireless networks using spectrum bands other than those dedicated to cellular and PCS. WinStar's "Wireless Fiber" provides local, long distance, and Internet access services using the 38 GHz band.[128] WinStar's Chicago network has been operational since April 1997,[129] and the company expects to begin operating in St. Louis within a year.[130] Teligent plans to use low cost, microwave digital wireless technology to reach small- to medium-sized businesses in Chicago.[131] Nextel has built a nationwide wireless network using SMR spectrum; the company is operational in 6 states in SBC's region, and all 5 states in Ameritech's region. It is present in both Chicago and St. Louis. See Map 37 at the "Maps" attachment.

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[127] AT&T holds 3 MTA and 65 BTA licenses in SBC's region and 5 MTA and 30 BTA licenses in Ameritech's, covering over 80 percent of the population in SBC's region, and nearly 100 percent in Ameritech's. Sprint's licenses cover the entire country. See Map 20 at the "Maps" attachment.

[128] See WinStar, The Business (visited July 20, 1998) <http://www.winstar.com/ indexThe Buiss.htm>.

[129] See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: WinStar at 8 (9th ed. 1998).

[130] See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: WinStar at 9 (9th ed. 1998).

[131] See Conversation: Teligent Inc.'s Alex Mandl, Wash. Post, Feb. 2, 1998, at F10 (stating that Teligent is currently installing a DMS-500 in Chicago). See generally

Joining SBC's and Ameritech's CMRS properties will improve the licensees' ability to offer the type of service that the Commission has endorsed and sought to promote – seamless, broad coverage. The Commission has recognized that the development of larger calling scopes is pro-competitive and provides consumer benefits.[132] In addition to a wider calling scope, the combined company will better be able to offer consumers consistency of advanced features that depend on the existence of an integrated, regional network that can be designed and operated to minimize costs and maximize efficiencies.[133]

3. Internet Services

The merger will stimulate increased competition in the national market for Internet services. Local phone companies provide much of the lower-speed Internet access over conventional, circuit-switched dial-up lines. Internet access is provided by almost 4,500 Internet service providers ("ISPs") in North America, including the major IXCs. The Internet's backbone networks are operated by some 29 national providers, including WorldCom/UUNet, MCI (whose Internet business is being sold to Cable & Wireless), GTE and Sprint, among others.[134] Regional Bells are not, of course, numbered among them.

Teligent Press Release, Teligent Reports First Quarter Financial Results (May 12, 1998), available at <http://www.teligentinc.com/news/rdlb.html>.

132 See, e.g., In re Bell Atlantic Mobile Systems, Inc. and NYNEX Mobile Communications Co., Order, 10 FCC Rcd. 13368, ¶ 48 (1995) (citing In re Application of Corpus Christi Cellular Telephone Co., Memorandum Opinion and Order, 3 FCC Rcd. 1889 (1988)).

133 As discussed above, the merger will not reduce competition in any paging market.

134 See Bill McCarthy, Directory of Internet Service Providers, Boardwatch Magazine, Winter 1998, at 5; J. Rickard, Measuring the Internet, Boardwatch Magazine Directory of Internet Service Providers, July/Aug. 1997, at 20.

In addition to these providers, cable operators are rapidly upgrading their networks to offer high-speed data services[135] and are already supplying high-speed cable modem service in a number of states in the SBC and Ameritech regions. See Schmalensee/Taylor Aff. ¶ 61; Table 13 at the "Tables" attachment. Over 11 million (10 percent) of all U.S. homes already have access to high-speed cable modem service. A number of new "data CLECs," as well as more established CLECs like AT&T/TCG/TCI and Intermedia, are now providing competitive digital subscriber line services throughout the U.S. At least five such companies already provide such services in California: Covad, NorthPoint Communications, WorldCom/MCI/MFS/Brooks/ UUNet, Rhythms NetConnections, and ACI.[136] Several digital satellite networks are expected to be fully operational shortly, including Iridium (Fall 1998), GlobalStar (1999), Ellipso (2001), Astrolink (2001), Spaceway (2001) and Teledesic (2003); each of these networks plan to offer both voice and data services, and may provide Internet access.[137]

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[135] See generally Cable Datacom News, Commercial Cable Modem Launches in North America (visited July 20, 1998), <http://cabledatacomnews.com/cmic7.htm> (showing that more than 40 companies have deployed commercial cable modem services in over 50 cities). Microsoft has invested $1 billion in Comcast and over $200 million in Road Runner, a cable-based Internet access company. See A. Gould et al., Oppenheimer & Co. Inc., Media Stocks: Cable Stocks Reconsidered – Industry Report, Investext Rpt. No. 2562652, at *2 (Jul. 3, 1997) (stating "[t]he $1 billion Microsoft investment clearly points to the cable infrastructure as the preferred provider of high-speed data."); Microsoft Press Release, Microsoft Invests $1 Billion in Comcast (June 9, 1997), available at <http://www.microsoft.com/presspass/press/1997/jun97/ comcaspr.htm>; Microsoft, Compaq Get in on Road Runner, L.A. Times, June 16, 1998, at D18.

[136] See Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Relief from Regulation, CC Dkt. No. 98-91, at 15-17 (FCC filed Jun. 9, 1998).

[137] See Iridium LLC Reports Second Quarter Results, PR Newswire, July 14, 1998 at 18:12:00; J. Moran, Satellite Use Boom is Taking Communications to New Level, Star Tribune, June 21, 1998, at 7D; News Briefs, Mobile Satellite News, July 9, 1998; Ellipso, Inc. Meets Construction Milestone, PR Newswire, June 22, 1998 at 10:35:00; Lockheed Martin Touts Its Astrolink System, Communications Today, Sept. 19, 1997; Satellites Will Fill Global Skies, Asia-Pacific Telecommunications, Apr. 1, 1998 available in 1998

As described in Section II.A, above, the new SBC plans to deploy high-speed data networks and services as part of the National-Local Strategy. In addition, both Ameritech and SBC are now beginning to deploy these services within their respective regions. As discussed in Section II.E, above, the deployment of Internet and other high-speed data services requires a significant investment in new technology, and a large learning curve. The merger will spread development costs and risks across a broader base, sharply reducing unit costs and accelerating the delivery of new services to market.

SBC and Ameritech are tiny players in the market for Internet services today; holding less than 2% of the national market combined.[138] The only effect of this merger will to be to create a company better able to compete in a critically important, rapidly growing market that is dominated by other companies.

4. <u>Long Distance and International Service</u>

The merger will help reduce concentration and promote competition in long distance and international markets alike. As the Commission has found, the interexchange market today is less than fully competitive, particularly in residential markets.[139] AT&T, WorldCom/MCI, and Sprint together earn over 80 percent of U.S.

WL 10658895; J. Robertson, <u>Telecom EOMs Battle Local Bells Over xDSL Data Right</u>, Electronic Buyers' News, July 13, 1998, <u>available</u> <u>at</u> 1998 WL 13059021.

[138] Moreover, SBC and Ameritech do not provide Internet access service in overlapping areas.

[139] <u>See</u> <u>In re Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services In Michigan</u>, Memorandum Opinion and Order, 12 FCC Rcd. 20543, ¶ 16 (1997) (noting that "not all segments of [the long distance] market appear to be subject to vigorous competition," and in particular, "the relative lack of competition among carriers to serve low volume long distance customers."). Chairman Kennard recently wrote to the CEOs of the three largest IXCs "regarding the growing body of evidence that suggests that the nation's largest long distance companies are raising rates when their costs of providing

long distance revenues.[140] The market is still characterized by a considerable degree of consciously parallel pricing by the three major facilities-based carriers.

As described in Section II.A, above, the new SBC will add a significant measure of new competition to this market. The company will market long distance service along with local exchange, Internet access, and other services in 30 of the largest markets outside of its region. By capturing a credible share of domestic long distance traffic out-of-region, and in-region once Section 271 approvals are secured, the merged company can only add to competitive choices in this very large market.

The company is equally committed to compete in providing service on U.S.-international routes, which are often less competitive than the domestic long distance market. AT&T, MCI/WorldCom and Sprint account for nearly 82 percent of all U.S. international telecommunications revenue.[141] SBC and Ameritech possess complementary international strengths that will position the new SBC as one of a smaller number of global competitors. No other U.S. carrier has invested as much in foreign telecommunications carriers as the combined SBC/Ameritech. Moreover, as described in Section II.C, the new SBC plans to expand its international presence significantly, building facilities in 14 foreign cities to serve large national and international business

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service are decreasing." Letters from Chairman Kennard to Michael C. Armstrong, Bert Roberts and William T. Esrey, February 26, 1998.

[140] FCC, Long Distance Market Shares: First Quarter 1998 table 3.2 (June 1998), available at <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State-Link/ixc.html#marketshares>.

[141] See FCC, Long Distance Market Shares: First Quarter 1998 table 5.1 (June 1998), available at <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State-Link/ixc.html#marketshares>.

customers. For U.S.-based companies, this should lead to lower international termination rates and lower costs in conducting international business operations.

5. Global Seamless Services for Large Business Customers

The merger of SBC and Ameritech will also provide substantial benefits by creating a strong new competitor offering sophisticated, integrated telecommunications services to large global customers. As the Commission has repeatedly noted in recent years, large national and transnational business customers occupy a discrete market of their own. This product market, the Commission has concluded, is for "Global Seamless Services" and is "of worldwide geographic scope."[142] This market is populated by the most demanding customers – customers with the most far-flung locations to connect and with the most sophisticated demands for advanced services. It is competition in this critical market that will ultimately propel and define competition in more familiar markets, such as the markets for local and long distance service to residential and small business customers.

The new SBC will rank among the few enterprises with the resources, scale and international presence to compete on a truly global scale. The company will have the economies of scope and scale essential to permit it to develop integrated services and market them worldwide, at competitive prices. It will also have a large base of employees with the technical skills needed to build local exchange businesses from the ground up, and the financial strength and reputation for reliability it will need to compete effectively in this market. Just as the merger will permit the new SBC to follow its customers wherever they

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[142] See In re Request of MCI Communications Corp. and British Telecomm. plc, Declaratory Ruling and Order, 9 FCC Rcd. 3960 (1994) ("BT/MCI I"); In re the Merger of MCI Communications Corp. and British Telecomm. plc, Memorandum Opinion and Order, 12 FCC Rcd. 15351 (1997) ("BT/MCI II").

have domestic telecommunications needs, the same will be true for customers with transnational requirements.

The global seamless services market is necessarily limited to "only a handful of major competitors world-wide," the Commission found, because "[c]ompetition in these markets requires significant resources, which must extend throughout the world."[143] Indeed, even two of the largest telecommunications companies in the U.S. – MCI and Sprint – had to find equally large international partners in order to be able to enter this market. The Commission approved British Telecom's investment in MCI, and Deutsche Telekom's and France Telecom's investment in Sprint, on the grounds, inter alia, that each of these alliances would add an additional player into the global seamless services market.[144]

As one of the few competitors that will be capable of serving the large-customer market, the new SBC will certainly increase competition in this market.[145] As described above, only a small number of competitors presently are serving this market, each of which is being assisted by one or more foreign partners. Moreover, the ability of U.S. firms to compete in this market is quite limited due to the need to have an extremely broad geographic presence.

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[143] BT/MCI II at ¶¶ 91, 130.

[144] See BT/MCI I at ¶ 51 (as "arguably . . . first entrant" into the global seamless service market, new BT/MCI alliance will have a "procompetitive effect".); In re Sprint Corporation, Declaratory Ruling and Order, 11 FCC Rcd. 1850, ¶¶ 84, 86 (1996) (The Joint Venture between Sprint, FT and DT will "have a procompetitive effect" as it will "add another significant competitor to this market."), modified, 12 FCC Rcd. 8430 (1997).

[145] Cf. id. ¶ 87 ("The establishment of a new, viable competitor in [the global seamless services market] should result in more competitive options for U.S. customers, particularly in terms of pricing and variety of services available for large scale, high-end customers such as multinational corporations.").

More importantly, however, it is by unleashing a new round of competition at the top end of the market that the SBC/Ameritech merger will propel competition throughout local exchange markets generally. That is SBC/Ameritech's own business strategy – to offer voice, long distance and data services to the largest business customers, and to use the infrastructure deployed to serve smaller businesses and residential customers. Kahan Aff. ¶ 41. As described in Section II.A, above the new SBC intends to offer packages of local, long distance, data and other telecommunications services in 30 new markets.[146] Actual and potential competitors for the business of large business customers will have to make competitive responses. Markets throughout SBC's region, and the rest of the U.S, will ride this wave of new competitive entry by the nation's largest carriers. This will spur further competition by the niche players, and in due course unleash incumbent local phone companies to compete in-region in long distance voice and data markets as well.

6. Video Services

The Commission has defined video markets as "local markets in which consumers can choose among particular multichannel or other video programming distribution services."[147] Some 87 percent of those subscribing to multi-channel video systems are

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[146] As the Commission has found, bundled service packages can "have clear advantages for the public," such as greater convenience and the ability to secure volume discounts by aggregating purchases of different services. See In re Applications of Craig O. McCaw and American Tel. and Tel. Co., 9 FCC Rcd. 5836, ¶¶ 73-75 (1994), aff'd sub nom SBC Communications Inc. v. FCC, 56 F.3d 1484 (D.C. Cir. 1995), recon. in part, 10 FCC Rcd. 11,786 (1995) ("AT&T/McCaw"); see also 142 Cong. Rec. S713 (daily ed. Feb. 1, 1996) (statement of Sen. Harkin) (joint marketing allows "low cost integrated service, with the convenience of having only one vendor and one bill to deal with"); S. Rep. No. 104-23, at 43 (joint offerings constitute a "significant competitive marketing tool").

[147] See In Re Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd. 1034, ¶ 11 (1998).

served by traditional cable companies.[148] In its most recent Annual Assessment, the Commission concluded that the main form of competition to incumbent cable operators today is coming from wireless alternatives like DBS, LMDS and MMDS, not wireline cable overbuilders. With over 5 million subscribers, DBS is "the most significant alternative to cable television,"[149] and today more people are signing up for DBS than for cable.[150] An additional 2 million customers use home satellite dishes.[151] SMATV systems offer a further competitive alternative for the 25 to 30 percent of the U.S. population that lives in multiple dwelling units.[152] Other terrestrial wireless cable providers offer further competitive options.[153] And the high-speed Internet data networks discussed in Section IV.C.3, above, will soon be video capable, at which point the video and Internet markets should converge.

This merger will not adversely affect competition in the market for multichannel video programming distribution. For the present, the main competitive alternatives to cable are wireless ones, with the exception of SNET's and Ameritech's overbuilds, and the Commission has taken the necessary steps to issue the licenses and promote

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[148] See id.

[149] See id.

[150] See D.H. Leibowitz et al., Donaldson, Lufkin & Jenrette Securities, Direct Broadcast Satellite (DBS) Industry - Industry Report, Investext Rpt. No. 2601562, at *2 (Nov. 21, 1997).

[151] See Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd. 1034, ¶ 11 (1998).

[152] See D.H. Leibowitz et al., Donaldson, Lufkin & Jenrette Securities, Direct Broadcast Satellite (DBS) Industry - Industry Report, Investext Rpt. No. 2601562, at *2 (Nov. 21, 1997).

[153] See Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd. 1034, ¶11 (1998).

competition in that segment of the market. With respect to Ameritech's overbuild systems within its region, this merger would simply replace SBC for Ameritech as the party with ultimate control over those competitive systems.

7. Alarm Monitoring

Markets for alarm monitoring services are regional in scope, often comprising several metropolitan areas or states. Major alarm monitoring providers like ADT, Borg Warner and Ameritech use centralized operations centers to provide service. Some 11,500 local regional and national companies provide alarm monitoring services.[154] The largest player, ADT, has less than an 8 percent market share; the top 10 firms serve just 18 percent of the market.[155]

SBC currently does not participate in alarm monitoring and, if this merger is approved, Ameritech will simply continue its alarm monitoring business. The merger should have little if any impact on this market, and can have no possible adverse effect.

D. CONCLUSION: The Merger Will Advance the Policies of the Communications Act and Provide Substantial Net Benefits to Competition and the Public Interest

The merger of SBC and Ameritech, more than any transaction in recent memory, will advance the policies of the Communications Act. The National-Local/Global Strategy enabled by the merger will inject new competition into scores of domestic and international markets. This will stimulate a new era of competitive telecommunications and dismantle any remaining impediments to competition. The merger will also enhance

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[154] See B.K. Langenberg, Credit Suisse First Boston, Tyco International Company Report, Investext Rpt. No. 2601367 (Nov. 17, 1997).

[155] See The 1998 SDM 100, Security Distributing and Marketing (SDM) Magazine, (visited July 16, 1998) <http://www.sdmmag.com/list.htm>; Insider Report, Security

the international competitiveness of the U.S. telecommunications industry. In addition, it will enhance the merged company's efficiency and facilitate the delivery of new and upgraded services to consumers.

There is no doubt that each of these results of the merger is a substantial benefit to the public interest. Any ultimate reckoning of net benefits would find the merger overwhelmingly in the public interest.

V. RELATED GOVERNMENTAL FILINGS

In addition to the filings with the Commission, SBC and Ameritech are taking steps to satisfy the requirements of other governmental entities with respect to the merger.

First, the Department of Justice will conduct its own review of the competitive aspects of this transaction pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18A, and the rules promulgated under that Act. On July 20, 1998, SBC and Ameritech each submitted to the Department of Justice and the Federal Trade Commission a pre-merger notification form and an associated documentary appendix.

Second, the Illinois Commerce Commission and the Public Utility Commission of Ohio will review the merger under the laws of those states, and filings will be made shortly.

Third, the approval of certain state public utilities commissions may be required in connection with Ameritech's authorizations to provide intrastate interexchange service

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Distributing and Marketing (SDM) Magazine (visited July 20, 1998) <http:www.sdmmag.com/98stats.htm>.

in 45 states and local exchange service in eight out-of-region states. SBC and Ameritech also may need to surrender certain authorizations as required by state and federal law.

Fourth, the local franchising authorities in the majority of jurisdictions in which Ameritech has received franchises for competitive cable systems will review the transfer of control effected by this merger.

Finally, SBC and Ameritech will make certain notifications to or filings with regulatory authorities in one or more European countries in which SBC or Ameritech holds direct or indirect investments in telecommunications companies.

The Applicants fully expect that these reviews by the Department of Justice, the Illinois and Ohio Commissions and other governmental entities will confirm that the merger of SBC and Ameritech is not anticompetitive and is in the public interest.

VI. <u>ADDITIONAL AUTHORIZATIONS</u>

In addition to seeking the Commission's approval of the transfers of control of the FCC authorizations covered in these applications, the Applicants are also requesting the additional authorizations described below, and they are simultaneously filing an application for a declaration by the Commission, under Section 212 of the Communications Act and Part 62 of the Commission's Rules, that, upon consummation of the merger, all of SBC's post-merger carrier subsidiaries (including SWBT, Pacific Bell, Nevada Bell, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Inc., Michigan Bell Telephone Company, The Ohio Bell Telephone Company and Wisconsin Bell, Inc.) will be "commonly owned carriers." The Applicants are also simultaneously filing applications to transfer control to SBC of certain Section 214 authorizations controlled by Ameritech.

A. After-Acquired Authorizations

As set forth in the relevant exhibit to each of these transfer of control applications, Ameritech controls entities which hold a number of FCC authorizations, all of which would be affected by this proposed transaction. While the applications for approval of the transfer of ultimate control of these authorizations are intended to be complete, the licensees involved in this proposed transaction may have on file, and may file for, additional authorizations for new or modified facilities, some of which may be granted during the pendency of these transfer of control applications.

Accordingly, the Applicants request that the grant of the transfer of control applications include authority for SBC to acquire control of:

(1) any authorization issued to Ameritech's subsidiaries and affiliates during the Commission's consideration of the transfer of control applications and the period required for consummation of the transaction following approval;

(2) construction permits held by such licensees that mature into licenses after closing and that may not have been included in the transfer of control applications; and

(3) applications that will have been filed by such licensees and that are pending at the time of consummation of the proposed transfer of control.

Such action would be consistent with prior decisions of the Commission.[156]

[156] See, e.g., SBC/Telesis, 12 FCC Rcd. 2624 at ¶ 93; In re Applications of Craig O. McCaw and American Tel. & Tel., 9 FCC Rcd. 5836, ¶ 137 n.300 (1994), aff'd sub nom. SBC Communications Inc. v. FCC, 56 F.3d 1484 (D.C. Cir. 1995), recon. in part, 10 FCC Rcd. 11786 (1995) ("AT&T/McCaw").

B. Blanket Exemptions to Cut-Off Rules

Pursuant to Sections 22.123(a), 24.423(g)(3), 24.823(g)(3), 25.116(b)(3), 90.164(b) and 101.29(c)(4) of the Commission's Rules, the Applicants request a blanket exemption from any applicable cut-off rules in cases where Ameritech's subsidiaries or affiliates file amendments to pending Part 22, Part 24, Part 25, Part 90 and Part 101 or other applications to reflect the consummation of the proposed transfer of control. The exemption is requested so that amendments to pending applications to report the change in ownership would not be treated as major amendments requiring a second public notice period. The scope of the transaction between SBC and Ameritech demonstrates that any ownership changes are not made for the acquisition of any particular pending application, but are part of a larger merger undertaken for legitimate business purposes. The grant of such an exemption would be consistent with previous Commission decisions routinely granting a blanket exemption in cases involving large transactions.[157]

C. Unconstructed Systems/Antitrafficking Rules

The overwhelming majority of the FCC authorizations that are the subject of the proposed transfer of control applications consist of constructed facilities. However, certain facilities in the point-to-point microwave service are authorized but not yet constructed. Under Section 101.55(d) of the Commission's Rules, the transfer of control of such facilities does not implicate the Commission's antitrafficking restrictions because the transfer of these unconstructed facilities is incidental to the larger transaction

[157] See, e.g., In re Applications of PacifiCorp Holdings, Inc. and Century Tel. Enterprises, Inc., 13 FCC Rcd. 8891, ¶ 45 (1997); SBC/Telesis, 12 FCC Rcd. 2624 at ¶ 91; AT&T/McCaw, 9 FCC Rcd. 5836 ¶ 137; In re Applications of Centel Corp. and Sprint Corp. and FW Sub. Inc., 8 FCC Rcd. 1829, ¶ 23, review denied, 8 FCC Rcd. 6162 (1993).

involving the transfer of control of an ongoing, operating business.[158] Pursuant to Sections 1.2111(a), 24.439(a), 24.839(a) and 101.55(d), this Exhibit and the Plan demonstrate that the proposed transaction is a stock-for-stock exchange based upon the valuation of Ameritech as a whole. No separate payments are being made with respect to any individual FCC authorizations or individual facilities.[159]

VII. CONCLUSION

For the foregoing reasons, the Commission should conclude that the merger of SBC and Ameritech serves the public interest, convenience and necessity and should grant the applications to transfer control of Ameritech's FCC authorizations to SBC.

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[158] In addition, Ameritech holds authorizations for unconstructed cellular and PCS facilities; however, no restrictions exist against transferring control of these authorizations. The cellular authorizations are not unserved area systems and were not initially obtained by Ameritech through a comparative renewal proceeding. See 47 C.F.R. § 22.943(b)-(c) (1997). Likewise, Ameritech did not receive the PCS authorizations through the use of set-asides, installment financing, bidding credits or bidding preferences. Thus, there are no restrictions on their transfer pursuant to 47 C.F.R. §§ 1.2111, 24.439, 24.839 (1997).

[159] See, e.g., SBC/Telesis, 12 FCC Rcd. 2624 at ¶ 91.

Description of Transaction

DESCRIPTION OF THE TRANSACTION

On May 10, 1998, SBC and Ameritech entered into an Agreement and Plan of Merger, under which Ameritech would become a first-tier, wholly-owned subsidiary of SBC. A copy of the Merger Agreement follows this attachment. The Applicants plan to consummate the merger within a year, after the necessary federal and state regulatory approvals have been received* and certain other preconditions have been met.

Under the Merger Agreement, SBC Delaware, Inc., a wholly-owned SBC subsidiary formed to accomplish the merger, will merge into Ameritech, with Ameritech as the surviving corporation. The stockholders of Ameritech will receive, on a tax-free basis, newly-issued shares of SBC. The Merger Agreement provides for a fixed exchange ratio of 1.316 shares of SBC common stock for each share of Ameritech common stock.**

Following the merger, SBC will own all of the stock of Ameritech. SBC itself will be owned approximately 56% by the pre-merger stockholders of SBC and 44% by the pre-merger stockholders of Ameritech.*** Ameritech will continue to own the stock of its subsidiaries, which will continue to hold all of the FCC authorizations they currently hold. While SBC will become the new parent of Ameritech, there will be no

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* A description of these regulatory approvals, in addition to this Commission's review, is set forth in Section V of the Exhibit to which this description is attached.

** On May 8, 1998, the last trading day before the public announcement of the merger, the closing prices of SBC common stock and Ameritech common stock, as reported on the NYSE Composite Transactions Tape, were $42 3/8 per share $43 7/8 per share, respectively.

*** Following the consummation of SBC's pending merger with SNET, the combined entity will be owned approximately 42.5 percent by the pre-merger shareholders of Ameritech.